

CONTRACT FOR ENGINEERING SERVICES
CDM Smith Inc.

This Contract, dated _____, 2016, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and CDM Smith Inc., a corporation (the Engineer), whereby the Engineer agrees to provide the City with certain professional services as described herein and the City agrees to pay the Engineer for those services.

1. Scope of Services

In consideration of the compensation stated in paragraph 2, the Engineer agrees to provide the City with the professional services as described in Attachment A, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: Design, Bidding and General Services during Construction of Dumpsterveyor and Bar Screen Improvements at the Burton Creek Wastewater Treatment Plant.

2. Payment

In consideration of the Engineer's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Engineer according to the terms set forth in Attachment B. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all professional services provided under this Contract may not exceed One Hundred Twenty-Six Thousand Fifty-Five and No/100 Dollars (\$126,055.00).

3. Time of Performance

- A. All design work and other professional services provided under this Contract must be completed by the following date: December 31, 2017. The City Engineer may agree to an extension of the time for completion. Any extension of the time for completion approved by the City Engineer, however, shall only be effective upon the execution of an instrument in writing stating the terms of the extension and signed by both the City Engineer and the Engineer. The Schedule is more fully defined in Attachment C.
- B. **Time is of the essence of this Contract.** The Engineer shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

4. Warranty, Indemnification, & Release

- A. As an experienced and qualified design professional, the Engineer warrants that the information provided by the Engineer reflects high professional and industry standards, procedures, and performances. The Engineer warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, is pursuant to a high standard of performance in the profession. The Engineer warrants that the Engineer will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Engineer, its employees, agents, or associates for the exercise of skill and diligence to promote the

accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Engineer, its employees, associates, agents, or subcontractors.

- B. The Engineer shall promptly correct any defective designs or specifications furnished by the Engineer at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Engineer's services hereunder or of the Project itself shall in no way alter the Engineer's obligations or the City's rights hereunder.
- C. In all activities or services performed hereunder, the Engineer is an independent contractor and not an agent or employee of the City. The Engineer and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Engineer shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Engineer shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Engineer shall have ultimate control over the execution of the professional services. The Engineer shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Engineer or any of the Engineer's subcontractors.
- D. The Engineer must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Engineer, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- E. **Responsibility for damage claims (indemnification): Engineer shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Engineer's negligent performance of the work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Engineer shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Engineer's negligence.**
- F. Release. The Engineer releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Engineer or its employees and any loss of or damage to any property of the Engineer or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Engineer's negligent performance of the work. Both the City and the Engineer expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. **Engineer's Insurance**

The Engineer agrees to maintain, on a primary basis, for the duration of this contract the insurance coverages and limits as described below. See Attachment D for insurance example. The Engineer must deliver to the City a certificate(s) of insurance evidencing that such policies are in full force and effect within 5 business days of notification of the City's intent to award a contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the contract to be rejected.** The City reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Engineer, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Engineer under the Agreement.

- A. **Commercial General Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain a standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Engineers.
- B. **Professional Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain Professional (Errors & Omissions) Liability to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error or omission of the Engineer or any person employed or acting on the Engineer's behalf (including but not limited to sub-contractors). For policies written on a "claims-made" basis, Engineer agrees to maintain a retroactive date prior to or equal to the effective date of this contract and that continuous coverage will be maintained or a supplemental extended reporting period will be purchased with a minimum reporting period not less than two years after the completion of this contract. The Engineer is solely responsible for any additional premium for the supplemental extended reporting period.

No "claims made" policies are acceptable without prior approval by the City Attorney. If approved, coverage must be maintained for two years after the completion of this contract.

- C. **Business Automobile Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. Should the Engineer not own any automobiles, the business auto liability requirement shall be amended to allow the Engineer to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.
- D. **Workers' Compensation Insurance & Employers' Liability Insurance** – Statutory & \$500,000/\$500,000/\$500,000. The Engineer agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Engineer shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.
- E. **Additional Insured Endorsements** The Engineer agrees to endorse the City as an Additional Insured on each insurance policy required to be maintained, with the exception of the worker's

compensation, employer's liability and professional liability policy.

- F. **Waiver Of Subrogation** Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit Engineer to enter into a pre-loss agreement to waive subrogation without an endorsement, then Engineer agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Engineer enter into such an agreement on a pre-loss basis.
- G. **Deductibles, Coinsurance Penalties, & Self-Insured Retention** Engineer shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.
- H. **Subcontractor's Insurance** The Engineer shall agree to cause each subcontractor employed by Engineer to purchase and maintain insurance of the type specified, provided the Engineer's insurance does not afford coverage on behalf of the subcontractor.
- I. **Certificate Of Insurance** Engineer shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-VI" or better and/or otherwise acceptable to the City. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. Engineer has the affirmative obligation to advise City at the address listed below within 5 business days of the cancellation or substantial change of any required insurance policy, and failure to do so shall be construed as a breach of this contract.

Failure of the City to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

In the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the Engineer shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to Engineer until coverage is reinstated. If the Engineer fails to maintain the required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Engineer's expense.

Certificates and notices should be given to the City at the following address:

**City of Bryan
Attn: Risk Management Department
300 S. Texas Ave.
Bryan, TX 77803**

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of

poor financial condition.

6. Termination

- A. The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Engineer's receipt of such notice, the Engineer shall cease work immediately. The Engineer shall be compensated for the services satisfactorily performed prior to the termination date.
- B. If, through any cause, the Engineer fails to fulfill its obligations under this Contract, or if the Engineer violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Engineer **five (5)** calendar days written notice to the Engineer. The Engineer will be compensated for the services satisfactorily performed before the termination date.
- C. No term or provision of this Contract shall be construed to relieve the Engineer of liability to the City for damages sustained by the City because of any breach of contract by the Engineer. The City may withhold payments to the Engineer for the purpose of setoff until the exact amount of damages due the City from the Engineer is determined and paid.

7. Miscellaneous Terms

- A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan
Attn: Mark Jurica
P.O. Box 1000
Bryan, Texas 77805

The Engineer:
Attn: Danny Hurtado, P.E.
12357-A Riata Trace Pkwy, Ste 210
Austin, TX 78727

- C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- D. This Contract represents the entire and integrated agreement between the City and the Engineer and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- E. This Contract and all rights and obligations contained herein may not be assigned by the Engineer without the prior written approval of the City.
- F. The Engineer, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Engineer must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

Party of the First Part
CITY OF BRYAN, TEXAS

Approved as to Form:

Janis K. Hampton, City Attorney

Approved for Processing:

Jayson Barfknecht, P.E., Ph.D
Director of Public Works

Kean Register, City Manager

Approved:

By: _____
Jason P. Bienski, Mayor

Attest:

By: _____
Mary Lynne Stratta, City Secretary

Date: _____

Party of the Second Part
ENGINEER:

By: _____
Printed Name: Allen D. Woelke
Title: Vice President
Date: _____
Firm's License No.: F-3043

Witness

ATTACHMENT “A”
Burton Creek Wastewater Treatment Plant
Dumpster-Veyor and Bar Screen Improvements
Design, Bidding and General Services during Construction
Scope of Work

ENGINEER’S SERVICES – DESIGN PHASE

ENGINEER will prepare for incorporation in the Contract Documents final Drawings showing the scope, extent and character of the work to be performed and furnished by Contractor and Specifications (which will be prepared, where appropriate, in general conformance with the sixteen-division format of the Construction Specifications Institute).

ENGINEER will provide technical criteria, written descriptions and design data for CITY’s use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to review or approve the final design of the Project, and assist CITY in consultations with appropriate authorities.

ENGINEER will advise CITY of any adjustments to the opinion of probable Construction Cost and any adjustments to Total Project Costs known to ENGINEER as a result of changes in scope, extent or character or design requirements of the Project.

ENGINEER will prepare for review and approval by CITY, its legal counsel and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.

ENGINEER will furnish five copies of the above documents, Drawings and Specifications and review them with CITY.

ENGINEER's services under the Design Phase will be considered complete at the earlier of (1) the date when the submittals have been accepted by CITY or (2) thirty days after the date when such submittals are delivered to CITY for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER, if such approval is to be obtained during the Design Phase.

The duties and responsibilities of ENGINEER during the Design Phase are amended and supplemented as follows:

The improvements will be designed, bid and constructed in one construction contract.

The Plant construction contract consists of the following.

- Addition of the Dumpsterveyor Sludge collection equipment at the Sludge Dewatering Building.
- Removal of the existing climber bar screen and replacement with a multi-rake bar screen at the Headworks/Influent Lift Station.
- Miscellaneous electrical and instrumentation improvements to incorporate the new equipment into the plant process.

ENGINEER will prepare and submit to the TCEQ the Project Summary Letter and if requested by TCEQ submit the Plans and Specifications for their review and approval.

ENGINEER will have a kickoff meeting with the CITY to summarize the improvements and finalize any outstanding issues. ENGINEER will prepare drawings for QA/QC and CITY review at 30% and 90% complete stage. CITY will attend review meetings at ENGINEER's offices.

Task 2 BIDDING PHASE

After acceptance by CITY of the ENGINEER's Drawings, Specifications and other Design Phase documentation (including the most recent opinion of probable Construction Cost), and upon written authorization to proceed, ENGINEER shall:

Assist CITY in advertising for and obtaining bids and proposals for the contract for construction, materials, equipment and services; and attend a pre-bid conference.

Prepare Addenda and provide to CITY to issue as appropriate to clarify, correct, or change the Bidding Documents.

Consult with CITY as to the acceptability of subcontractors, suppliers and other persons and entities proposed by Contractor for those portions of the work as to which such acceptability is required by the Bidding Documents.

Assist CITY in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

The Bidding Phase will terminate and the Services to be performed or furnished thereunder will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

The duties and responsibilities of ENGINEER during the Bidding or Negotiating Phase as set forth in this paragraph are amended and supplemented as follows:

ENGINEER shall provide CITY with five (5) hard copies of the Bidding Documents and one digital copy of the Bidding Documents in pdf format.

The ENGINEER shall attend the pre-bid meeting. The ENGINEER will not be required to attend the bid opening.

The ENGINEER will provide the CITY with a recommendation of award.

Task 3 CONSTRUCTION PHASE

General Administration of Construction Contract

ENGINEER shall consult with and advise CITY and act as CITY's representative as provided in the Standard General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified, except to the extent provided herein.

Visits to Site and Observation of Construction

In connection with observations of the work of Contractor while in progress:

ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work. Such visits and observations by ENGINEER are not intended to be exhaustive or to extend to every aspect of the work in progress, or to involve detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling and similar methods of general observation of the work based on ENGINEER's exercise of professional judgment. Based on information obtained during such visits and such observations, ENGINEER shall endeavor to determine in general if such

work is proceeding in accordance with the Contract Documents and ENGINEER shall keep CITY informed of the progress of the work. The responsibilities of ENGINEER contained in this paragraph are expressly subject to the limitations set forth in the following paragraph and other express or general limitations in this Agreement and elsewhere. The ENGINEER will attend not more than four (4) construction meetings.

The purpose of ENGINEER's visits to the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for CITY a greater degree of confidence that the completed work of Contractor will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

Defective Work

During such visits and on the basis of such observations, ENGINEER shall have authority to disapprove of or reject Contractor's work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

Clarifications and Interpretations; Field Orders

ENGINEER shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

Change Orders and Work Change Directives

ENGINEER shall recommend Change Orders and Work Change Directives to CITY as appropriate, and shall prepare Change Orders and Work Change Directives as required.

Shop Drawings

ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

Substitutes

ENGINEER shall evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor. However, services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the construction contract in evaluating and determining the acceptability of a substitute which is appropriate for the Project or an excessive number of substitutes will only be performed pursuant to an amendment to this Agreement for additional compensation.

Inspections and Tests

ENGINEER may require special inspections or tests of the work, and shall receive and review all certificates of

inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

Disagreements between CITY and Contractor

ENGINEER shall render the initial decisions on all claims of CITY and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. In rendering such decisions, ENGINEER shall be fair and not show partiality to CITY or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

Applications for Payment

Based on ENGINEER's on-site observations as an experienced and qualified design professional and on review of Applications for Payment and the accompanying data and schedules:

ENGINEER shall determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to CITY, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, the work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in this paragraph are expressly subject to the limitations set forth in the following paragraph and other express or general limitations in this Agreement and elsewhere.

By recommending any payment ENGINEER shall not thereby be deemed to have represented that on-site observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER's recommendation of any payment (including final payment) will impose on ENGINEER responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to CITY free and clear of any liens, claims, security interests or encumbrances, or that there may not be other matters at issue between CITY and Contractor that might affect the amount that should be paid.

Contractor's Completion Documents

ENGINEER shall receive, review and transmit to CITY with written comments maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, and marked-up record documents (including Shop Drawings, Samples and other data approved as provided under the Shop Drawings paragraph and marked-up record Drawings) which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. ENGINEER's review of such documents will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

Substantial Completion

Following notice from Contractor that Contractor considers the entire work ready for its intended use, ENGINEER and CITY, accompanied by Contractor, shall conduct an inspection to determine if the work is substantially complete. If after considering any objections of CITY, ENGINEER considers the work substantially complete; ENGINEER shall deliver a certificate of Substantial Completion to CITY and Contractor.

Final Notice of Acceptability of the Work

ENGINEER shall conduct a final inspection to determine if the completed work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall indicate that the work is acceptable (subject to the Applications for Payment paragraphs) to the best of ENGINEER's knowledge, information and belief and based on the extent of the services performed and furnished by ENGINEER under this Agreement.

Limitation of Responsibilities

ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the work. ENGINEER shall not be responsible for Contractor's failure to perform or furnish the work in accordance with the Contract Documents.

Duration of Construction Phase

The Construction Phase will commence with the execution of the construction contract for the Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment.

The duties and responsibilities of ENGINEER during the Construction Phase as set forth in this paragraph are amended and supplemented as follows:

The ENGINEER will conform the Construction Documents to reflect changes made by addenda during the Bidding process. The ENGINEER will provide the CITY five (5) hard copies and one digital copy in pdf format. The ENGINEER will provide the Contractor five (5) hard copies and one digital copy in pdf format.

The ENGINEER will visit the site monthly to observe the work completed, attend a monthly construction meeting and review the pay application. The total number of site visits for preconstruction meetings, monthly meetings, substantial completion and final completion reviews shall not exceed four.

The ENGINEER will be available to consult with the CITY's engineers, inspectors or operators regarding the Construction Documents, Construction progress or proposed revisions to the Construction Documents.

The ENGINEER will prepare Record Drawings from the As Built Drawings provided by the Contractor. The ENGINEER will provide the CITY one set of Record Drawings on mylar, one set on bond, and one digital copy in pdf format.

ATTACHMENT 'B'
FEE SUMMARY & ESTIMATED MONTHLY FEE SCHEDULE

Payment to the ENGINEER will be made as follows:

A. Invoice and Time of Payment

Monthly invoices will be issued by the ENGINEER for all work performed under this Agreement. Invoices are due and payable on receipt. Invoices will be prepared in a format approved by the CITY prior to submission of the first monthly invoice. Monthly payment of the fee will be in proportion to percent completion of the total work for each fee item outlined below.

B. Upon completion of services enumerated in Attachment A, Scope of Services, the final payment of any balance will be due upon receipt of the final invoice.

BASIC SERVICES

Design	\$75,431
Bidding Phase	13,076
Construction Phase	<u>37,548</u>
Total Basic Services	\$126,055

**ATTACHMENT “C”
PROJECT SCHEDULE**

SCHEDULE:

TIME PERIOD FOR PERFORMANCE

The time periods for the performance of ENGINEER's services as set forth in Article 3 of said Agreement are as follows:

Design	Four Months from Notice to Proceed
Bidding	Three Months from Completion of Design Phase
Construction Services	Twelve Months from Completion of Bidding Phase

